

§ 1943.17 Loan limitations.

(a) An FO loan will not be approved if:

(1) The total outstanding direct FO, Soil and Water (SW) or Recreation (RL) loan principal balance including the new loan owed by the applicant will exceed the lesser of \$200,000 or the market value of the farm or other security.

(2) The noncontiguous character of a farm containing two or more tracts is such that an efficient farming operation cannot be conducted due to the distance between tracts or due to inadequate rights-of-way or public roads between tracts.

(3) The limitation found in § 1943.29 (b) of this subpart is exceeded.

(b) Loans may not be made for any purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in exhibit M to subpart G of part 1940 of this chapter. Refer to FmHA Instruction 2000-LL, "Memorandum of Understanding Between FmHA or its successor agency under Public Law 103-354 and U.S. Fish and Wildlife Service," for assistance in implementation.

(c) The purpose of the loan is to finance a nonfarm enterprise.

[53 FR 35692, Sept. 15, 1988, as amended at 58 FR 48282, 48288, Sept. 15, 1993; 59 FR 25800, May 18, 1994; 62 FR 9356, Mar. 3, 1997; 68 FR 62224, Nov. 3, 2003]

§ 1943.18 Rates and terms.

(a) *Terms of loans.* Each loan will be scheduled for repayment over a period not to exceed 40 years from the date of the note or such shorter period as may be necessary to assure the loan will be adequately secured, taking into account the probable depreciation of the security. The loan approval official will also consider the repayment ability of the applicant, as reflected in the completed Form FmHA or its successor agency under Public Law 103-354 431-2, "Farm and Home Plan," or other similar plan of operation acceptable to FmHA or its successor agency under Public Law 103-354, when setting the term. In any case, there must be an interest payment scheduled at least annually in accordance with the FMI for

Form FmHA or its successor agency under Public Law 103-354 1940-17, "Promissory Note." Loans may have reduced annual installments scheduled, of at least partial interest, for the first five years.

(b) *Interest rate.* Upon request of the applicant, the interest rate charged by FmHA or its successor agency under Public Law 103-354 will be the lower of the interest rates in effect at the time of loan approval or loan closing. If the applicant does not indicate a choice, the loan will be closed at the interest rate in effect at the time of loan approval. Interest rates are specified in exhibit B of FmHA Instruction 440.1 (available in any FmHA or its successor agency under Public Law 103-354 office) for the type of assistance involved. A lower rate is established in this exhibit for a limited resource applicant subject to the following:

(1) The applicant meets the conditions of the definition for a limited resource applicant set forth in § 1943.4 of this subpart.

(2) The farm business plan shows that installments at the higher rate, along with other debts, cannot be paid during the period of the plan.

(3) A borrower with limited resource interest rates will be reviewed each year at the time the analysis is conducted (see § 1924.55 of subpart B of part 1924 of this chapter) and at any time a servicing action such as reamortization or deferral is taken to determine what interest rate should be charged. The rate may be increased in increments of whole numbers until it reaches the current regular interest rate for the loan at the time of the rate increase. (See § 1951.25 subpart A of part 1951 of this chapter.)

(c) *Interest rate with joint financing.* When the applicant obtains financing from a private lender equivalent to 50 percent or more of the total funds needed, the interest rate on the direct FO loan will be fixed at a rate determined by the Agency Administrator but at not less than 4 percent for the term of the loan. The current rate is available in FSA offices.

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